

REMARKS

In response to the Office Action dated November 22, 2005, Applicant respectfully requests reconsideration based on the above claim amendment and the following remarks. Applicant respectfully submits that the claims as presented are in condition for allowance.

Claims 1-27 remain pending in the present application. Claims 14 and 15 have been canceled, leaving Claims 1-13 and 16-27 for consideration upon entry of the present Amendment. No new matter has been introduced by these amendments.

Problem Solved by Claimed Subject Matter

According to MPEP § 2141.02 ("as a whole" inquiry), applicants who allege they discovered the source of a problem must provide evidence substantiating the allegation, either by way of affidavits or declarations, or by way of a clear and persuasive assertion in the specification. Applicant has discovered the source of a problem with respect to inventorying the switching fabric in a particular DSLAM, and in the network as a whole (Specification at page 6, following paragraph [0016]). The cause of the problem is that as the size of the network grows, maintaining an accurate inventory of the number of cross-connects in a particular DSLAM and the network as a whole at any given point in time becomes difficult (Specification at page 6, following paragraph [0016]). In particular, the subscribers that maintain an accurate inventory of the number of cross-connects in a particular DSLAM and the network as a whole at any given point in time, must physically visit each DSLAM which becomes inconvenient and impossible

(Specification at page 6, following paragraph [0016]). Thus, Applicant has discovered a solution for the problem, which is a system and method of inventorying the switching fabric in a DSLAM and in a broadband access network as a whole and does not require physically visiting each DSLAM in that network (Specification at page 6, following paragraph [0016]). As provided by MPEP § 2141.02, the pending claims should be viewed as a whole in light of this information.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-27 stand rejected under § 35 U.S.C. 103(a) as allegedly unpatentable over U.S. Patent Number 6,363,421 to Barker et al. (hereinafter "Barker") in view of U.S. Patent Number 6,697,970 to Chisholm.

Claims 10, 11, 25 and 26 stand rejected under § 35 U.S.C. 103(a) as allegedly unpatentable over U.S. Patent Number 6,363,421 to Barker et al. (hereinafter "Barker") in view of U.S. Patent Number 6,697,970 to Chisholm in further view of U.S. Patent Application Number 2002/0101854 A1 to Teixeira.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations (see, MPEP § 2142).

Independent Claim 1 is currently amended and recites:

A method for inventorying a switch fabric in a broadband access network multiplexing element, the multiplexing element comprising a managed element in a broadband access network management system coordinated by a network manager, comprising:

establishing communication with an element manager in a plurality of element managers from a remote location, the element manager comprising an intermediary between the network manager and the multiplexing element;

gathering status information for the multiplexing element in a plurality of multiplexing elements by issuing a first interface retrieve command to the element manager from the remote location; and

gathering status information for the switch fabric by issuing a second interface retrieve command to the multiplexing element from the remote location;

repeating the gathering status information for the switch fabric step for each remaining multiplexing element in the plurality of multiplexing elements; and

repeating the gathering status information for the element manager step for each remaining element manager in the plurality of element managers.

At page 5 of the Office Action (11/22/05), the Office stated Barker does not disclose repeating gathering status information for the switch fabric for each remaining multiplexing element and it does not specifically disclose repeating gathering status information for each remaining element manager. Applicant agrees and currently amends claim 1 to explicitly recite "repeating". Applicant submits that the subject matter of claim 1 addresses the problem set forth in the instant application (see above).

Applicant further submits that the Barker reference and the Chisholm reference do not address the same problem. More specifically, the references, in combination, do not provide evidence sufficient to motivate one of ordinary skill in the art to arrive at the subject matter of claim 1, as currently amended.

At page 6 of the Office Action (11/22/05), the Office provides a motivation for combining the two references: "to be able to remotely manage/maintain network elements". While the Barker reference discloses remote management of the network elements (see, Col. 1, lines 24-25). Applicant asserts that this evidence alone is insufficient to establish motivation for one of ordinary skill in the art to modify the network element of Barker with Chisholm. Again, the problems addressed by these references differ from the problem addressed by the instant application.

With respect to Claims 2-13 which depend directly or indirectly from independent Claim 1, they too are allowable for at least the reasons discussed above. Accordingly, the rejection of these claims is requested to be withdrawn for at least these reasons.

Independent Claim 16 was previously presented which recites:

A system for inventorying a broadband access network multiplexing element switch fabric, comprising:
an element manager, the element manager comprising an intermediary between a network manager and the multiplexing element;
a first communications path between the element manager and the multiplexing element, the first communications path carrying information and control commands between the element manager and the multiplexing element;
an inventory tool at a location remote from the element manager, the inventory tool generating switch fabric inventory commands and compiling switch fabric inventory information received in response to the switch fabric inventory commands;
a second communications path between the inventory tool and the element manager, the second communications path carrying the switch fabric inventory commands and switch fabric inventory information between the inventory tool and the element manager.

At page 7 of the Office Action (11/22/05), the Office stated Barker does not disclose the network element being a multiplexing element. Applicant agrees. The

Office then gave the motivation for combining the two references as "to provide switching functions and transport network functions". As mentioned above, Applicant solved the problem addressed in the Specification, which is maintaining an inventory of the switching fabric in a DSLAM and in a broadband access network as a whole without having to physically visit each DSLAM in that network. This problem is not addressed by either reference. Consequently, Applicant finds insufficient evidence to combine the references. Further, Chisholm does not disclose a multiplexing element having a switch fabric.

With respect to Claims 17-26 which depend directly or indirectly from independent Claim 16, they too are allowable for at least the reasons discussed above. Accordingly, the rejection of these claims is requested to be withdrawn for at least these reasons.

Independent Claim 27 which was previously presented recites:

*A system for inventorying a broadband access network
multiplexing element switch fabric, comprising:
means for establishing communication with an element
manager from a remote location, the element manager
comprising an intermediary between a network manager and
the multiplexing element;
means for gathering status information for the multiplexing
element by issuing a first interface retrieve command to the
element manager from the remote location; and*

means for gathering switch fabric inventory information for the fabric structure of the multiplexing element by issuing a second interface retrieve command to the multiplexing element from the remote location.

This independent means claim should be allowable for at least the reasons discussed above in Claims 1 and 16. Accordingly, the rejection should be withdrawn.

All of the § 103(a) rejections rely on Barker. Applicant submits that Barker does not disclose the recited features. Chisholm does not disclose a multiplexing element having a switch fabric. The Office has failed to uncover and select references which teach, suggest or disclose the positively recited features of the claims.

Conclusion

All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the present application.

Respectfully Submitted,

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